

REMARKS

This paper is in response to the Office Action mailed May 17, 2006. By this paper, claims 12 and 14-16 are amended and claim 21 is cancelled without prejudice. Accordingly, claims 12-16 are pending upon entry of this amendment.

The Examiner has indicated that the reissue oath/declaration filed with this application is defective. Enclosed is a copy of an oath/declaration originally submitted on June 18, 2003 in response to a Notice to File Missing Parts of a Reissue Application together with a copy of the certificate of mailing. It does not appear that this oath/declaration was entered into the current file and Applicant believes that this oath/declaration corrects the deficiencies noted by the Examiner. Applicant submits that this oath/declaration is proper because the parent application has issued as RE37,728 and this continuation application was filed to continue the prosecution of claims 12-16 of the original patent which were rejected during the prosecution of the parent application. This continuation application does not have any new claims nor was it filed to correct a defect different than its parent application.

Amendments to Claims 12 and 16

Claims 12 and 16 have been amended to reflect amendments made to the corresponding claims in the parent application and additionally to clarify the subject matter which Applicant regards as the invention.

Conclusion


In view of the amendments and remarks made herein, Applicant submits that the claims presented herein are patentably distinguishable from the art applied and prompt allowance of the application is respectfully requested.

Should the Examiner determine that anything else is desirable to place this application in even better form for allowance, the Examiner is respectfully requested to contact the undersigned by telephone.

Respectfully Submitted,

WEGMAN, HESSLER & VANDERBURG

By: _____


Jeffrey S. Ellsworth,
Reg. No. 51,650

Wegman, Hessler & Vanderburg
Suite 200
6055 Rockside Woods Boulevard
Cleveland, Ohio 44131
216/642-3342
June 5, 2006



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Michael Kamm
FOR : **VARIABLE SPEED MECHANISM AND
METHOD FOR CONTROLLING THE
SPEED OF AN ASSOCIATED LAWN
MOWING APPARATUS**
SERIAL NO. : 09/899,349
FILED : July 5, 2001
LAST OFFICE ACTION : April 28, 2003
EXAMINER : Marian E. Day
GROUP ART UNIT : 3682
ATTORNEY DOCKET NO. : 30267.31633

Akron, Ohio 44308-1471
June 18, 2003

CERTIFICATE OF MAILING

I hereby certify that this **SUBMISSION OF MISSING PARTS OF
NON-PROVISIONAL APPLICATION** is being deposited with the United States Postal
Service as first class mail in an envelope addressed to: Mail Stop **MISSING PARTS**,
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown
below.

6/18/03
Date

Connie J. Nutter
Connie J. Nutter

Mail Stop **MISSING PARTS**
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUBMISSION OF MISSING PARTS OF
NON-PROVISIONAL APPLICATION

Dear Madam:

In response to the Notice to File Missing Parts mailed April 28, 2003, applicant submits the following item(s) for filing in the above-referenced U.S. Patent Application:

1. Reissue Oath Declaration with the written consent of all assignees.
2. Reissue Specification that is in the proper form of a copy of the printed patent. Each page will be in double-column format and on only one side of each sheet of paper, as is required by 37 CFR 1.173(a)(1).

The Commissioner is hereby authorized to charge payment of any additional fees due to credit any overpayment to Deposit Account No. 501210. A duplicate copy of this sheet is enclosed.

Having now complied with all of the requirements of 37 CFR 1.172 and 37 CFR 1.173(a)(1), applicant respectfully requests that this application be placed upon the files for examination.

Respectfully submitted,

BROUSE MCDOWELL

June 18, 2003

Date

Telephone No.: (330) 535-5711

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Timothy D. Bennett

Timothy D. Bennett

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Commissioner for Patents
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/899,349	07/05/2001	Michael Kamm	0267.1633

Brouse McDowell
A Legal Professional Association
500 First National Tower
Akron, OH 44308-1471

CONFIRMATION NO. 5163

FORMALITIES LETTER



OC00000009916804

Date Mailed: 04/28/2003

NOTICE TO FILE MISSING PARTS OF REISSUE APPLICATION

Filing Date Granted

An application number and filing date have been accorded to this reissue application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- Consent of assignee is missing. 37 CFR 1.172 requires that a reissue oath/declaration be accompanied by the written consent of all assignees.
- The reissue specification has not been provided in the form of a copy of the printed patent. Each page should be in double-column format and on only one side of each sheet of paper, as is required by 37 CFR 1.173(a)(1).

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

Reissue Application Declaration By the Assignee

I hereby declare that:

My residence, post office address, and citizenship are stated below next to my name. I am authorized to act on behalf of the following company: MTD Products Inc and the title of my position with said company is: Vice President of Product Development and Engineering.

The entire title to the patent identified below is vested in said company, as shown in the Assignment document at Reel 8263, Frame 0374. Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application arose without any deceptive intention on the part of the applicant.

Name of Patentee(s): Michael Kamm
Patent Number: 5,803,847
Date Patent Issued: September 8, 1998

Title of Invention: A Variable Speed Mechanism and Method for Controlling the Speed of an Associated Lawn Apparatus

I believe said patentee(s) to be the original, first and sole or joint inventor(s) of the subject matter which is described and claimed in said patent, for which a reissue patent is sought on the invention entitled: A Variable Speed Mechanism and Method for Controlling the Speed of an Associated Lawn Apparatus the specification of which

X is attached hereto.

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

_____ by reason of a defective specification or drawing.

X _____ by reason of the patentee claiming more or less than he had the right to claim in the patent.

_____ by reason of other errors.

BEST AVAILABLE COPY

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At least one error upon which reissue is based is described as follows:

In light of Jones et al, the issued claims may be broader than the patentee has a right to.

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

I hereby appoint the following attorney(s) and/or agents(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Name(s)

Registration Number

Roger D. Emerson

33,169

Please send all correspondence to:

Daniel A. Thomson

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Fourteenth Floor

Akron, Ohio 44308

USA

Telephone: (330) 535-9999

Facsimile: (330) 535-5000

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Nick J. Cashier

Nick Cashier, Vice President of Product Development and Engineering

1500 Surrey Downs

NOVELTY, OH 44072

Residence Address

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Citizenship

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